

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF MISSISSIPPI
ABERDEEN DIVISION

MICHAELA MILLS,

Plaintiff,

v.

No.: 1:15cv101-SA-DAS

ESPN, INC. and
MISSISSIPPI STATE UNIVERSITY,

Defendants.

COMPLAINT FOR PERSONAL INJURIES

COMES NOW the Plaintiff, Michaela Mills (“Mills”) and complains of the Defendants as follows:

1. Michaela Mills is a resident of Buckhannon, West Virginia.
2. The Defendant, ESPN, Inc. is a foreign corporation with its principal place of business located at ESPN Plaza, Bristol, Connecticut 06010.
3. The Defendant, Mississippi State University, is a Mississippi public university located in Starkville, Mississippi.

JURISDICTION AND VENUE

4. This Court has subject matter jurisdiction over the claims brought by the Plaintiff pursuant to 28 U.S.C. §1332 (Diversity Jurisdiction). The amount in controversy is greater than \$75,000.00 and there is complete diversity of citizenship between the Plaintiff and the Defendants.

5. On November 28, 2014, Mills gave notice of claim to Mississippi State University pursuant to Mississippi Statute §11-46-11, by providing a copy of the attached Exhibit "A" notice via hand delivery to Mark E. Keenum, President of Mississippi State University.

FACTS

6. Mills was a student at Mississippi State University. She was part of the cheerleading team acting as one of the "Bully" mascots. "Bully" would appear at University sporting events and other activities of Mississippi State University.

7. When acting as the "Bully" mascot, Mills wore a costume which included a headpiece that resembled the school's mascot "Bully" the bulldog. The head piece provided limited visibility for the wearer.

8. On or about November 28, 2013, Mills was acting as "Bully" the mascot for the annual Egg Bowl between Mississippi State University and The University of Mississippi. Mills was on the side lines with the cheerleading team in her Bully costume. The Egg Bowl was played at Starkville, Mississippi.

9. On the same date and time, ESPN was providing live television coverage of the football game. As part of the filming of the game, ESPN was operating a TV cart which is generally described as a motorized cart or platform with a lift that could elevate a camera to take game footage. The cart is owned by ESPN or Mississippi State University.

10. The cart was manned by employees of the Defendants. The crew operating the cart consists of a driver, a cameraman and a spotter. The cart travels in a reasonably straight line along the sidelines following the action of the game. Depending on the direction of travel, the cart operator may be facing the direction of the travel or may be facing away from the direction of travel. A second employee is on the cart to act as a spotter, when the cart is traveling in a direction where the driver's view is obscured.

11. During a particularly exciting portion of the game, the cart was traveling down the sidelines and neither the driver nor the spotter were watching the direction the cart was traveling. The cart struck Mills, resulting in a compound fracture of the left tibia and fibula.

12. The force of the blow was so great that Mills' bones punctured the skin and her Bully costume.

13. Mills was transported by ambulance to the hospital, where she underwent surgery to insert a rod and pins in her tibia to stabilize the bones. As of the date of filing this Complaint, Mills continues to have pain in the site of the fracture and does not consider herself fully healed.

ALLEGATIONS AND NEGLIGENCE

14. The Defendants, acting through their employees, failed to keep proper lookout in driving the TV Cart.

15. The Defendants, acting through their employees, failed to maintain proper control of the TV Cart, so as to avoid striking Mills.

16. The Defendants, acting through their employees, negligently collided the TV Cart with Mills, a pedestrian.

17. The Defendants' employee, failed to give warning to Mills of the impending collision.

18. The Defendants' employee, who was acting as a spotter on the TV Cart, failed to give warning to the driver of the TV Cart that a collision with Mills was imminent.

19. The Defendants, acting through their employee, negligently struck Mills with the TV Cart.

20. Defendants, acting through their employees, negligently failed to avoid running over Mills.

21. Mills' injuries were solely and proximately caused by the negligence of the Defendants acting either individually or jointly.

22. Defendants are liable for the actions of their employees, through the theories of *respondeat superior* and negligent supervision.

23. Defendant, Mississippi State University is liable to Mills for her injuries herein described, pursuant to the Mississippi Tort Claims Act, Miss. Code Ann. §11-46-1 et. seq.

DAMAGES

24. As the cause and result of the negligence of Defendants, Mills will receive personal injury and damages, including but not limited to:

- A. A compound fracture of her left tibia and fibula;
- B. Great fright and shock;
- C. Pain and suffering;
- D. Medical expenses;
- E. Loss of enjoyment of life; and
- F. All other damages naturally arising from the injuries suffered by Mills.

WHEREFORE, PLAINTIFF PRAYS:

- 1. For an award of compensatory damages in excess of \$75,000.00.

PLAINTIFF DEMANDS A JURY TO TRY ALL ISSUES.

Respectfully submitted,

EVANS PETREE PC

/s/ Beth Buffington
Beth Buffington (#104735)
1000 Ridgeway Loop Road, Suite 200
Memphis, TN 38120
(901) 525-6781
bbuffington@evanspetree.com

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